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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,277	07/23/2001	Frank-Gerhard Boss	Le A 34 494	4089

7590 04/12/2004

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EXAMINER	
HUI, SAN MING R	

ART UNIT	PAPER NUMBER
1617	

DATE MAILED: 04/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/911,277	BOSS ET AL.	
	Examiner	Art Unit	
	San-ming Hui	1617	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☒ A Notice of Appeal was filed on *3/11/2004*. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☒ The proposed amendment(s) will not be entered because:

(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: *See Continuation Sheet*.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: *None*.

Claim(s) objected to: *None*.

Claim(s) rejected: *1 and 3-16*.

Claim(s) withdrawn from consideration: *None*.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

Sanming Hui 4/7/04

Continuation of 2. NOTE: The proposed amendments filed March 11, 2004 cancel the broadest claim and changing the scope of the invention, which necessicitate the change of grounds in the rejections under 35 USC 103 set forth in the final rejection. Since the prosecution is closed, such amendments of the claims will raise new issue and consideration for the examiner.

Continuation of 5. does NOT place the application in condition for allowance because: since the proposed amendments filed March 11, 2004 will not be entered, the rejections set forth in the previous office action remain. Applicant's arguments averring that the cited prior arts not teaching the selective PDE2 inhibitors have been considered, but are not found persausve. The cited prior art teaches compounds such as the one exemplified in example 39 of Haning, which reads on to the herein claimed compounds, as useful in treating cerebrovascular diseases (e.g., stroke). Since the compound of example 39 in Haning is one of the compounds of formula (I) recited in the claims, it must have the herein claimed PDE2 selectivity.
Applicant's arguments averring hindsight aruments have been considered, but are not found persuaisve. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into accoun only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).IN the instant case, the cited prior art provides the reason of using PDE 2 inhibition as well as one of the herein recited compounds in treating storke and thereby treating the herein claimed disorder. Applicant's arguments averring the structral dissimilarity o HL-725 and Rolipram as compare to thatof the herein claimed compounds have been considered, but are not found persuasive. Examiner notes that it is the functions of the compounds that are similar, not the structure. They are PDE2 inhibitors and elicit the same mechanism of actions. thus, possessing the teachings of the prior art, one of ordinary skill in the art woul dhave been reasonably expecte to employ the compounds that inhibit PDE2 for the treatment of the disorders of perception, concentration, learning and/or memory .